

Humphrey, James.

The state of the Union.

Speech... February 6, 1861

Washington, 1861.



Class E440
 5
Book .H92
 copy 2

EXCHANGED
West. Res. Hist. Soc.

S P E E C H

OF

HON. JAMES HUMPHREY,
OF NEW YORK,

DELIVERED IN THE

HOUSE OF REPRESENTATIVES, FEBRUARY 6, 1861.

The House having under consideration the report from the select committee of thirty-three—

Mr. HUMPHREY said:

Mr. SPEAKER: The debates of this session of Congress present a most extraordinary spectacle to the world. We are here in the Capitol of the United States. This is the Congress of the United States—the great central, controlling department of the Federal Government. We constitute the popular branch of that Congress, standing nearest the people; their immediate Representatives, commissioned by them to exercise for them that sovereignty which they, in the plenitude of their power, have conferred on the Federal Government. And each of us is bound by the most solemn act which can be performed in this world—by that pledge which makes God its witness, and, if violated, its avenger—to maintain the Constitution of that Government in our own hearts, by our own acts, and against all enemies. And yet, sir, it is here, in both Chambers of this Capitol, that we have had the strange, sad spectacle of men to whose protecting care this Government has been committed, who still bore its commissions, and had not yet abjured their allegiance, tasking the powers of intellects trained in the subtlest schools of legal casuistry to drain and exhaust, one by one, the vital forces of the Constitution; rustling their senatorial robes, and jostling each other in their eager and indecent haste to surrender its franchises, to cripple its powers, and to sully its honor.

Sir, the question which has been cast upon this generation to decide, and which confronts us now, is, whether this national Government of ours is a splendid delusion or a reality—a house of cards, to be demolished by a breath, or an enduring structure, resting on immovable foundations, like the great stones of the Capitol, laid far down out of sight, by Cyclopean builders. For one, I have lived and expect to die in the latter faith. We have not gone on for seventy years exercising all the highest functions of a great nation, levying war, concluding peace, making treaties, borrowing hundreds of millions of dollars, in all the markets of the world, to confess at this late day that we have been an

impudent, though till now a successful Pretender.

Mr. Speaker, I regard all other questions as utterly insignificant in the presence of this new heresy of State supremacy and State secession. The moment that principle is acknowledged, our whole political system is pronounced a failure, and this great Government, so long the wonder of the world, for its admirable union of flexibility and strength, of individual liberty and national power, falls into hopeless ruin. Nothing will then remain for us but an immediate choice between two inevitable alternatives: to be broken up into petty discordant Republics, or to address ourselves to the task of organizing a new consolidated Government, in which the liberties of the citizen or the subject must be subordinated to the power and greatness of the State.

I do not now propose to discuss at length these new doctrines. These fatal errors all rest, in my judgment, upon false ideas of State sovereignty. There has been so much loose talking on this subject that it may not be a waste of the time of the House to subject it for a few moments to the test of historical scrutiny.

The popular phrase of the day is, that the States are about to “resume their original sovereignty!”

Sir, I will not stop to ask when it was that such a State as Florida, which we first bought with our money, and then rendered habitable by vast expenditures; which we found a wretched provincial dependency of Spain, and, with generous bounty, raised to the name and dignity of a State—a rank which, to this hour, she could not sustain a month, unprotected by a stronger power—every man, woman, and child in which has cost this Government a round thousand dollars *per capita*; I will not stop to inquire when it was that such a State was ever, in any proper sense of the term, an independent sovereignty.

I turn from those States which now lift their parrioidal hands against the author of their being, to the time-honored Thirteen. Sir, if South Carolina be now, indeed, a sovereign and independent State, I take leave to say that she has enjoyed that transcendent dignity and power but

two short months in all the time since the colonists sent out by Ashley Cooper, Earl of Shaftesbury, landed upon the banks of the rivers to which his names were given. Sir, at what moment of time did South Carolina ever stand among the nations of the earth as a sovereign State, exercising the supreme powers which pertain to that condition? When did she achieve for herself that independence of which she boasts? Nay, sir, that I may not seem to rest this argument on any comparison of services in the revolutionary struggle, when did even Massachusetts, whose flaming sword shone ever far in the front of that struggle; who contributed to it more men and munitions of war than all the southern States united; when did even Massachusetts declare, or achieve, or possess a separate independent nationality? Gentlemen speak of this Union as if thirteen separate States or Republics, each possessed of all the attributes of highest sovereignty, long used to the exercise of all supreme powers, accustomed to declare war, to conclude peace, to negotiate solemn treaties, and to confer with coequal potentates through stately embassies, had met at Philadelphia in 1787, each represented by grave plenipotentiary ambassadors, and there had formed a league for certain commercial and military purposes, revocable at the will of either of the high contracting powers.

Mr. Speaker, these thirteen independent nations never existed except in the brains of political theorists. He is a superficial student of our constitutional history who does not recognize the idea that UNION long preceded the idea of independence, and that NATIONALITY had its origin long before State sovereignty was dreamed of. The germ of our American unity was planted almost as early as the first seed-corn was cast into the quick and virgin bosom of the New World. This sentiment of nationality found its outward expression at the earliest periods, in formal confederacies of the colonies.

In 1643, the four New England colonies, Plymouth, Massachusetts Bay, Hartford, and New Haven, only five years after Davenport set up his "seven pillars" in the latter beautiful plain, entered into a "union," which they styled "a firm and perfect league," comprised in twelve articles of confederation, and providing for an annual "Congress" of two commissioners from each colony. There is no time in this short hour to trace this ever-growing principle of nationality through the succeeding century of colonial existence; but no fact stands out more clearly than that when, at last, the people began to gird themselves for the assertion of independence, it was as one nation. The first movements looked to united action.

It was for "our American liberties" that James Otis spoke, with his tongue of fire, in Faneuil Hall; while, from out the heart of Virginia, Patrick Henry thundered back his denunciations of the "Boston port bill." On the 6th of June, 1765, Otis advised, in the House of Representatives of Boston, the calling of a Congress in New York in October following, which motion was adopted. Mark the language of this forerunner of the Revolution, whose words

seemed sometimes to partake of a prophetic ecstasy:

"We must have a Union which shall knit and work into the very blood and bones of the original system every region as fast as settled."

Sir, the first State to respond was South Carolina, through Christopher Gadsden; the next was Georgia; then followed Pennsylvania, Rhode Island, Delaware, Connecticut, Maryland. The Congress met in October, 1765; and it was then that Christopher Gadsden uttered the sentiment of all hearts:

"There ought to be no New England man, no New Yorker, known on the continent; but all of us Americans."

Hear again the noble words of this South Carolina of the olden time:

"Nothing will save us but acting together. The province that endeavors to act separately must fall to the rest, and be branded besides with everlasting infamy."

Ten years passed away, and this complete national oneness was announced to the world in the most solemn ACT OF UNION ever proclaimed by any people. The Declaration of Independence was also a declaration of indivisible nationality. In its own very first words, it was "ONE PEOPLE" which then assumed their "separate and equal station among the Powers of the earth," and, as such, demanded and obtained recognition. Read the immortal State papers of that revolutionary Congress, which drew forth the fervent praises of Chatham and Burke, and see how instinct they are with nationality.

Mr. Speaker, I think a more careful historical review than I have time now to make, will vindicate the truth of the following propositions:

1. The colonies, prior to the Revolution, were dependencies of the Crown of Great Britain, owing allegiance to it, and asserting no separate sovereignty.

2. During this colonial existence, the people, while preserving the separate franchises contained in their charters and certain distinct municipal institutions, grew naturally together into one nation, comprising not a league merely, but an integral organization.

3. When the time came to assert a distinct nationality, the erection of twelve or thirteen petty republics entered into no man's imagination, but the people established the first rudimentary form of a national Government. They organized a power, which they called a Congress, investing it with some of the highest prerogatives of sovereignty.

4. This power, representing the national will, declared the colonies to be independent, not of each other, but of the Kingdom of Great Britain. It levied war, achieved the independence thus declared, and concluded peace.

5. The independence thus achieved was that of "the United States," not of any separate State. The States were called sovereign; but the sovereignty of neither was inherent, self-derived, nor did it ever exist in severalty. It was achieved and upheld by the United States, was qualified by its relations to that organization which represented the whole nation, and was, in an important sense, dependent upon the con-

federated Power to which it owed such attributes of sovereignty as it did possess.

6. No State, therefore, even under the old Confederation, could in good faith, after the peace, have repudiated its connection with the rest, and thus have deprived the whole of that national unity which all had sought to establish. Thus it was properly called a "perpetual Union."

7. The old Congress exercised the highest attributes of sovereignty—forming alliances with foreign Powers, accrediting ambassadors, negotiating loans, issuing bills of credit, signing and confirming treaties, declaring and conducting war, and concluding peace. And the citizens of the whole country sustained its supremacy, transferring, in effect, their allegiance from the Crown of Great Britain, in all matters of national concern, to this new Government of the United States, as an integral political power.

8. At last, when the nation outgrew this organization, the people formed "a new and more perfect Union" under our present Constitution.

Mr. KUNKEL. Will the gentleman from New York yield the floor a moment?

Mr. HUMPHREY. Certainly.

Mr. KUNKEL. So far as Maryland is concerned, the gentleman from New York is in error. That State declined to ratify and sign the Articles of Confederation, and remained out of the Confederacy long after independence was declared.

Mr. HUMPHREY. True; but during those two years Maryland was in no sense independent. The honorable gentleman refers to the Articles of Confederation, signed by most of the States in 1779. These articles did not create the Union. They simply defined the powers of the existing Union, and made it perpetual. Maryland had for years been a member of that Union. Her delegates sat in Congress during the whole of this period in which she withheld that formal ratification, and had joined in that most solemn act of Union, the Declaration of Independence. I need not say how well that noble State performed her part in supporting this united declaration. Sir, I have a right to speak on this subject, for in the city in which I live, in a beautiful wood, now happily perpetually reserved for a public park, there is a quiet ravine which once resounded with the clash of arms. There, sir, in the disastrous battle of Long Island, an entire Maryland regiment, the flower of the youth of that gallant State, surrounded by overpowering numbers of British and Hessian troops, were literally cut to pieces, disdaining to surrender, and fighting to the last for the liberties of the United States, upon the soil of New York. Sir, I cannot accept a disclaimer which would separate Maryland for a single day from that Union in behalf of which she offered up this precious sacrifice.

Thus, Mr. Speaker, this national germ, shooting up at first almost unobserved among those other precious growths, liberty, learning, civilization, religion, in the earliest spring time of our history, growing, by the inward forces of its organic life, developing gradually from rudimentary to more and more perfect forms, striking its

tenacious roots more deeply into its native earth as it wrestled with revolutionary storms, at last attained its mature proportions and its full, consummate flower.

I do not enter upon the argument drawn from the language of the Constitution and the declared opinions of its framers. That argument was exhausted thirty years ago, in this Capitol, in those great orations which have been rescued by their genius and eloquence from the quick mortality which waits upon congressional debates, and will live so long as the Constitution lives, which we fondly hope will be immortal.

Sir, I do not mean to waste my short hour in discussing the right of secession. I designed only to suggest how idle it is for States to be solemnly "resuming" a sovereignty which they never for an instant possessed.

But, sir, it is no longer an issue to be met by argument. Six States of this Union have already declared their purpose to maintain it by an appeal to arms. Others assert the same right, and threaten to exercise it, unless certain demands are complied with. The question, then, which confronts us is: shall this right be conceded? Before this issue all other questions vanish out of sight. On its decision the very existence of the Government hangs suspended. Questions of slavery and anti-slavery; of territorial occupation; of fugitive slave laws and personal liberty bill, are all trivial and temporary in the comparison of this. They regard the policy and the administration of the State. This touches its life. Compromises, concessions, are of small importance now, except as they affect this overshadowing issue. When they are proposed, I have but one question first to ask: will their discussion concede this right of secession? If it may be so construed, then I dare not take one step in that direction. What seems to some the unyielding attitude of the Republican party in this great crisis, may perhaps find some apology with generous minds who appreciate this exigency of its position. The distinguished gentleman from North Carolina, whose eloquent appeals the other day on this floor touched all hearts, referred, reproachfully but kindly, to what seemed to him almost indifference on this side of the Chamber. Nay, nay, say not that it is a "cold, icy stoicism" that repels your warm appeals. If we are motionless amid this convulsion, it is not from insensibility; but because, standing now upon the Constitution of our fathers, we can find no other solid ground on which to plant an advancing footstep. Believe me, this is no "sullen silence" that reigns on this side of the Chamber, when you appeal to us to offer concession to save the Union. It is a solemn fear that such concessions may prove its speedy and complete dismemberment.

I speak not now of the States which have already revolted, which have seized our forts, fired upon our vessels, plundered our treasuries, and are in armed rebellion. I have yet to see the first loyal citizen who proposes to offer any terms to these men till they have returned to their allegiance. True men do not negotiate with traitors. Government does not compound with treason. But for those States which remain

loyal, which abide by the Constitution and the Union in this hour of peril; which falter not in this time of trial, I know not what rational demand they would make which I could refuse. I know not what generous concessions which did not involve the surrender of some vital principle could be withheld from them. What we cannot yield to menace without dishonor, we may gracefully offer to a friendly hand. We cannot avert secession by compromise, because that would be the most distinct recognition of secession as a right. We cannot purchase allegiance, for that would be to admit the right to withhold it.

Mr. Speaker, I believe that I speak the sentiments of the Republican party, when I say that so long as we were left free to act with the just respect due to ourselves and to the Government, we were inclined to give the most favorable consideration to every complaint of injury, from whatever quarter it might come. To those who sought redress within the Union, and under the Constitution, for real or fancied wrongs, we were ever ready to listen, and no grievance would be unheard or unredressed.

It was in this spirit that the committee of thirty-three entered upon its duties. It was in this spirit that I, as member of that committee, gave my consent to a portion of its measures. But since those votes were taken, events more rapid than our careful steps have completely changed the aspect of the question. With the Gulf States it has become simply a question of power; with the other slaveholding States, I hope it is still a question of loyalty; but with neither, I fear, is it longer a question of compromise. This is not the time for nicely weighing adjustments and measuring out reciprocal concessions. Other elements have now entered into the problem, and must control its solution.

Mr. Speaker, before we enter upon any plan of adjustment of these unhappy controversies, it would seem to be most important to be well assured that the proposed measures will be accepted as a complete and satisfactory settlement. If, in the face of those menaces of secession, but protesting against any recognition of that fatal principle, we should adopt the measures of this committee, what encouragement have we to believe that they will be satisfactory even to the border States? The territorial proposition—the consent to admit New Mexico as a State, and thus forever to extinguish the whole subject of controversy by disposing of all the territory to which a question can attach, the only mode of adjustment, I fear, which will not compromise the principles on which a great party has just been intrusted with power, and which will not shock the moral sense of more than half the people of the Union—this proposition met too little favor, I thought, with southern gentlemen in committee, and I fear finds less in this House. Two distinguished members—the gentleman from Virginia and the gentleman from Tennessee—reject it here as they did in committee. If even those gentlemen, so patriotic, so devoted to the Union, cannot lend to the measure the sanction of their celebrated names and wide influence, what can we hope to effect by it?

Sir, I feel sensibly the objections which are urged on this side of the House to the adoption of this measure, growing out of the present condition of this Territory; but after resorting to all means of information to which I have had access, I am satisfied that these objections have been overstated; and at all events, I am sure that this Territory is in a far better condition for admission than Florida was when she was received, and I might perhaps extend the parallel to other States.

Sir, this mode of settling this vexed territorial question seems to me to be complete and final in itself, and consistent with the honor and dignity of all parties and sections. I do not regard it as a "concession" or a "compromise," words to the sound of which my friends are so nervously sensitive. It simply is a mode of removing the cause of quarrel. It effectually relieves the Federal Government from all complicity with slavery. It calls for no recognition, extension, or protection of this institution. It submits the question to be decided at once by the parties to whom, by universal consent, its final decision is to be referred—the people, in the formation of their State constitution. Aside from the conceded right of every State to determine this question for itself, this right is specially pledged to this people by the provisions of the organic act of 1850, by the condition of the cession of the territory of Texas, by a law which partakes also, in a degree, of the faith of a contract and the sacredness of a treaty. Surely, if New Mexico were now at our doors, with her constitution in her hand, we could not refuse her admission, whatever might be the provisions of that constitution on the subject of slavery. Nor is it now a point to be considered, either by the North or by the South, how the people may decide this question. If they decide it in favor of freedom—as I confidently believe they will do—they will but exercise a right which no one denies to them. As was well said by the gentleman from Texas, nobody now proposes to force slavery upon an unwilling people. If the soil and climate are not adapted to slavery, and if the people are not friendly to it, (as after much careful inquiry I feel well assured they are not,) the South will submit without complaint to the inevitable result.

But, Mr. Speaker, at this critical time I cannot agree to present any proposition which is not invited and accepted in a friendly spirit, which does not restore the ancient fraternal feeling, which does not settle forever these questions which disturb our peace, and restore the authority and insure the perpetuity of the national Government. I greatly fear that this is not the time to accomplish these great results.

Here, again, the doctrine of secession confronts us. This must be abandoned, as a first condition; for I take it, sir, we do not propose to admit New Mexico as a State to-day, to enable her to walk coolly off with Texas to-morrow. Two conditions should attend all measures of conciliation intended to remove popular discontents:

First, they should reach the true causes of complaint. I believe, sir, no one supposes that any propositions of compromise, which have

come from any quarter, would propitiate South Carolina, or perhaps any of the seceded States. To those who have revolted, or propose to revolt, because a President has been elected who is not their choice, or because the power and patronage of the Government is for a time passing into other hands, it is idle to offer proposals of concession which do not touch the real grievances. This reason is disowned by some, but not by all who have entered upon this revolt. If I do not greatly err, I have heard it avowed in this debate by more than one member representing a State which has not yet abjured her allegiance. I must confess, sir, that the votes of many gentlemen in the committee upon a resolution introduced by the honorable member from Massachusetts, [Mr. ADAMS,] which I find omitted in the printed proceedings, but is sufficiently stated in his minority report, that these very significant votes produced in my mind a painful fear that the committee had wasted its time on unimportant issues, while the true causes of complaint remained, not only untouched, but unavowed. At all events, sir, we should certainly know, before any action is taken, whether this is the governing reason; for if it be, then it is not a question of conciliation, but of *surrender*. There is but one mode of completely relieving the controversy of this element, which no compromise can reach. Let the elected President be regularly and peacefully inaugurated; and then let us address ourselves to those subjects of difference which shall be presented in good faith for adjustment.

A second condition which should apply to all propositions of conciliation is, that they shall be consistent with the honor and the dignity of the Government. A majority of the people have just elected a Chief Magistrate, and elevated the Republican party to power. The very existence of the Government depends upon the acquiescence of the minority in that election and the inauguration of the elected President. No concession can be granted as a condition of such assumption of power without the complete dishonor of those who yield it, and the utter prostration of the authority of the State. The very fear of such a construction may prevent propositions in themselves just and honorable. What must be refused to menace, might be gracefully yielded to loyal request.

For these reasons, Mr. Speaker, I have very great doubts whether these grave difficulties can be settled by this Congress. I think that the great duties of pacifying the country and reinvigorating the Government must both be cast upon the incoming Administration. I believe it will prove itself equal to the delicate and difficult task. It will bring to the work harmonious counsels, energetic purposes, patriotic impulses, and large wisdom. It will act freely without suspicion of fear or consciousness of weakness. It will have power which is now everywhere wanted to concentrate and to lead public opinion. It will act independently of the petty prejudices of the day, for it will move in the domain of history. It may have at an early day the aid of a Congress fresh from the people, not embittered as we have been by two years of intensest

conflict. I look forward to that Administration with steadfast trust and cheerful hope. But thirty days now intervene before it assumes the vast responsibilities which await it. On it will then rest the awful duty of saving the Republic from impending ruin. Let us hope it may prove equal to the task which we relinquish and worthy of the glory which is denied to our distracted counsels. When the authority of the Government is re-established; when order is restored; when the tone of the popular mind is recovered, then will come the time for new and nice adjustments of constitutional guarantees; and then let every grievance be redressed in conformity with dignity and honor, and what is far higher than either, the principles of eternal justice. Thus and thus only can this great nation be preserved in its integrity. Then generosity will not be mistaken for fear, and liberal, mutual concessions will strengthen the Government which they might now demoralize.

Mr. Speaker, I think the difficulty of arriving now at a practical plan of adjustment has been greatly increased by the character of the propositions which have been insisted on in the committee and in Congress. The most prominent of these is that which is commended to the favor of the country by the distinguished name it bears—the Crittenden proposition. Sir, what is called by many very influential southern gentlemen the vital feature of this plan—the provision for future acquired territory—has been sufficiently commented on by the distinguished gentleman from Massachusetts.

Mr. Speaker, when was it ever before suggested in the history of the world that a Christian nation should incorporate into its fundamental law a provision declaring the terms upon which it would divide up the territories of neighboring and friendly States? Sir, when did a great and prosperous and happy people ever before break up their own Government and rush into civil war in a quarrel over the anticipated spoil of foreign provinces not yet invaded? Why, sir, the banditti of southern Italy first plunder the traveller before they fall out over the booty. The robber-chiefs of the middle ages, the founders of European despotisms—Henry the Hawk and Rudolph of Hapsburg—first overran the weaker provinces around their strong-holds before they parceled out their conquests by the sword which had won them.

But, sir, if you strike out this provision, this proposition can never have my vote. Never, with my consent, shall the Constitution of these United States ordain and protect human slavery in any Territory. Where it exists by law I will recognize it, and defend the rights of the master; but never, by any act of mine, shall it be extended over one acre of free territory. But gentlemen say, it already exists by the Constitution in all the Territories. The gentlemen from Virginia and from Tennessee say that this bill, in fact, involves a concession from the South to the North, for it proposes to exclude the already existing institution of slavery from all the vast Territories north of latitude 36° 30', and they cite the authority of the Dred Scott case. Mr. Speaker, I am not going to weary

anybody with a discussion of that case. What it in fact did or did not decide, is of no moment with me. When cited here, in this House, as a decision upon a point of constitutional construction, I simply deny its authority.

I listened, last evening, with great pleasure, to the able and eloquent speech of the honorable gentleman from Kentucky, [Mr. MOORE,] and I was so much delighted with its excellent tone and patriotic devotion to the Union that I am unwilling to take exception to any portion of it. But I will venture to say that, if I rightly understood his argument in relation to the province and authority of the Supreme Court, in the construction of the Constitution, and the duty of Congress to be governed by those decisions, in all cases, I differ widely from his conclusions. The result of his argument would seem to me to erect this tribunal into an arbitrary and absolute political Council, holding office for life, without responsibility to the people; with power to change the Constitution at will, and to issue its decrees like the rescripts of an emperor.

MR. SIMMS. My colleague is not in his seat; and it is but just for me to say that the gentleman does not state his position correctly.

MR. HUMPHREY. This heresy is not, by any means, peculiar to the gentleman's colleague. I do not confine it to him, though it formed an important part of his speech.

MR. SIMMS. I ask that the gentleman will allow me for a single moment.

MR. HUMPHREY. With pleasure, if it is not to be taken out of my time.

Several MEMBERS. It will be.

MR. HUMPHREY. Then I cannot yield. The gentleman must excuse me. I have much more to say than I have time to say it in.

MR. SIMMS. Well, sir, the gentleman misrepresents the position of my colleague.

MR. HUMPHREY. I listened to the speech of the gentleman from Kentucky, last night, with very great attention, and I do not intend to misrepresent him. I shall not again refer to him, as he is not present, but will comment on this doctrine—not a new one here—which would regulate the action of this Government by the decisions of the Supreme Court, a moment further.

Sir, I desire to speak with great respect of that venerable court. The habits and studies of my life have taught me to defer to the authority of the judges. I recognize the great power which the Constitution has conferred upon them. I yield to their absolute authority over individuals who are rightfully before them for judgment; but their power, supreme as it is, is limited to the parties and the case. It can reach no further. The principle involved may be overruled by themselves, or their successors, and it may be re-examined when it touches the meaning of the Constitution by every other department of the Government. It is not of very great importance in itself what political opinions these very learned gentlemen may choose to form and express; but the question as to the power and extent of the authority which these opinions carry with them, has become one of the vital issues of the day. If this wide-reaching jurisdiction over the whole

sweep of public affairs shall be acknowledged by the people, as it seems to have been by some statesmen, then the people will have found a master; for the power to change the fundamental law of a nation at will is equally supreme and despotic, whether placed in the hands of a single Emperor at Paris, a Council of Ten in Venice, or a Court of Nine in Washington.

MR. SPEAKER, I yield to no one in my respect for that court, when acting in its appropriate sphere. I recognize on that bench judges of great learning and worth. As a citizen, or a litigant, I am obliged to submit to their judgment in all cases to which I am a party, within their jurisdiction. As a lawyer pleading at their bar, I bow to the authority of their adjudged cases; but as a legislator, when the construction of that great charter from which we both alike derive all our power, and which we are equally sworn to maintain, is involved, as a member of a co-ordinate and at least an equal branch of the common Government, their opinions with me, like those of all others, must stand or fall by their rendered reasons. Sir, I have an abiding faith that the people will never submit, nor allow their Representatives to submit, to any such doctrine of final and infallible authority; that they will never suffer this Constitution of theirs to be overlaid and smothered with legal precedents: will never permit its fair page to be scribbled over with the glosses of old lawyers, like a palimpsest, in which some grand and simple old classic is obliterated by the black letter subtleties of a Chapter of chattering monks.

I conclude, at all events, the principle of *res adjudicata* does not govern here. We at least can so far sink the technics of the lawyer as to banish from this House the conventional notion that the *last* adjudication is therefore the best. Sir, if we are indeed to accept the opinions of the Supreme Court as absolute authority to control our votes here, I for one should prefer to choose the master by whose words I am to swear. I would go back to other days—to the Thompsons, the Washingtons, the Storrs, and above all, to the great Chief Justice. Sir, when I compare the constitutional judgments of that illustrious jurist, who for so many years shed upon that tribunal the illuminations of his great mind, with the decisions of some more recent judges, in a late most celebrated case, I am almost tempted to exclaim with Cicero, when he compared the Sophists and Scliofists of his day with his own great master in philosophy, *Malo errare, mehercule, cum PLATONE quam cum istis vera sentire.*

Recovering from this digression, I find my inexorable hour will not permit me to remark, as I had intended, in detail, on the other propositions of this report. I proceed to another topic.

MR. SPEAKER, the fashionable phrase of the day now is *reconstruction*. Gentlemen speak with a coolness which ought in these times to be refreshing, of violently breaking up this great Government for the purpose of reconstructing a better out of its shattered fragments. Sir, in my judgment there can be no more fatal delu-

sion than this. Once make the separation complete, and you make it final. If the spirit of patriotism is so far extinct, if the ancient fraternal feeling has so utterly died out, that we are ready to overturn this structure, where and when shall we look for such a revival of both as shall suffice for its rebuilding? Sir, if this Union were but an alliance, a league, a partnership, or whatever other epithet of dishonor you choose to apply to express the lowest form of contract, such a reconstruction would be impossible; for it could not take place without war, immediate or proximate. When once kindred States have been torn asunder, and their borders have become battle-fields, and their dissevered and bleeding edges have been cauterized by the fires of war, what skillful surgery, what sweet medicaments of nature, what healing influences of time, can ever reunite them?

But, sir, political institutions are not lifeless masses, to be shaped and matched and glued together at will by ingenious artisans. Great States are not dead, geometrical forms, to be arranged and rearranged into a hundred curious shapes, like a Chinese puzzle. They are vital organizations, which determine their forms, not by external forces, but by the principle of life within them. This national Government, as I think I have shown, is the growth of more than two centuries. It strikes its roots far back into the earliest colonial settlements; and when you can reconstruct the oak which you have hewn limb from limb, you may reunite and revivify the torn and dismembered body of the Republic.

But, sir, this is not all. This ideal reconstruction is rendered forever impossible by the very act of dismemberment. Once establish the right of secession, and you not only destroy this Union, but you destroy the living principle itself, without which no Union can exist. Be assured that the States which remain loyal to this Constitution will never become parties to a trumpety compact, which can be dissolved in secret session, by a packed convention of a single State. Whatever States shall tear themselves away by revolutionary violence must return, if they return at all, with the recantation of this heresy on their lips, and submissive to the true theory of the Constitution.

Mr. Speaker, the preservation of the peace, of the complete integrity, nay, even of the existence of this nation, is not the greatest trust that is now committed to this generation of men. War, civil war, is a calamity which no description can exaggerate; the dismemberment of a nation is a dire catastrophe; the extinction of a mighty empire is one of those grand, sad tragedies which move with seeped pall at long intervals before the eye of the world; but all these are not the utmost ills that can befall the race. Far more fatal to civilization and to humanity may be the extinction of a *system of government* which unites the utmost capacity of national power and renown, and the most perfect protection of social order, with the highest degree of individual liberty. He who takes the life of a just man commits a crime which he may expiate with his own. He who conspires against the life of a nation, commits a crime which history

strives in vain adequately to punish with immortal infamy. But what language shall measure the crime of him who strikes at the life of a vital principle of free government, which it has cost thousands of lives to establish, and in which the hopes and happiness of millions of others are involved?

Mr. Speaker, what, after all, remains for us, but to stand to the last by this Government of our fathers? The State of New York has already spoken in no uncertain tone. Seated between the ocean and the great Mediterranean lakes, with her imperial city by her side; one-fourth larger in population, and far, far greater in all the resources of military power, than were the thirteen States at the period of the Revolution, she can play her part, thank God, in any drama that remains to be enacted on this continent. But she has taken her position. She will stand by this Constitution with whatsoever other States, be they many or be they few, shall choose to stand around her.

Mr. Speaker, whatever may be the fate of seceding States, this Government will not be destroyed. Nay, it will not be permanently weakened by this convulsion. It will, for centuries yet to come, be the commanding Power on this continent of North America; and to it all other Powers will be subordinate. A great maritime nation, it must hold all the keys of the continent. Her navy will command all the seas which wash its shores. Weaker nations, if any there be, must submit to her occupation of such posts as her military necessities require. She may not compel an unwilling people to share her power; but she will never permit that power to be in the least impaired. Her boundaries—ay, sir, her boundaries, will be determined wholly by considerations of military defence. Whatever is essential to her national greatness she will retain. She will keep open all the pathways of commerce from every sea to the far interior. She will unite both oceans with her iron roads; and she will advance with equal steps in her career of empire. When the first moments of incredulous surprise shall have passed, and she shall have performed her first duty of reoccupying the fortresses which have been seized by insurgents, and shall have vindicated the insulted majesty of the law, then it will be for her to determine whether she will maintain her jurisdiction over revolted States, or, with dignity and honor, by some proper constitutional method, sanction their withdrawal. If the latter more probable event should occur, whatever new government shall thus be set up on this western continent, must accept the relative position to which its relative strength may entitle it.

If a portion of these States propose to inaugurate a new and great experiment upon this continent, in the establishment of two confederacies, lying side by side, the one based upon free labor, and the other upon chattel slavery, to run the race of greatness for a hundred years, I, for my children and children's children, will accept the issue. One of these Powers will be dominant, and the other will at last exist, as some of the petty States of Europe exist, more by permission than by any inherent strength.

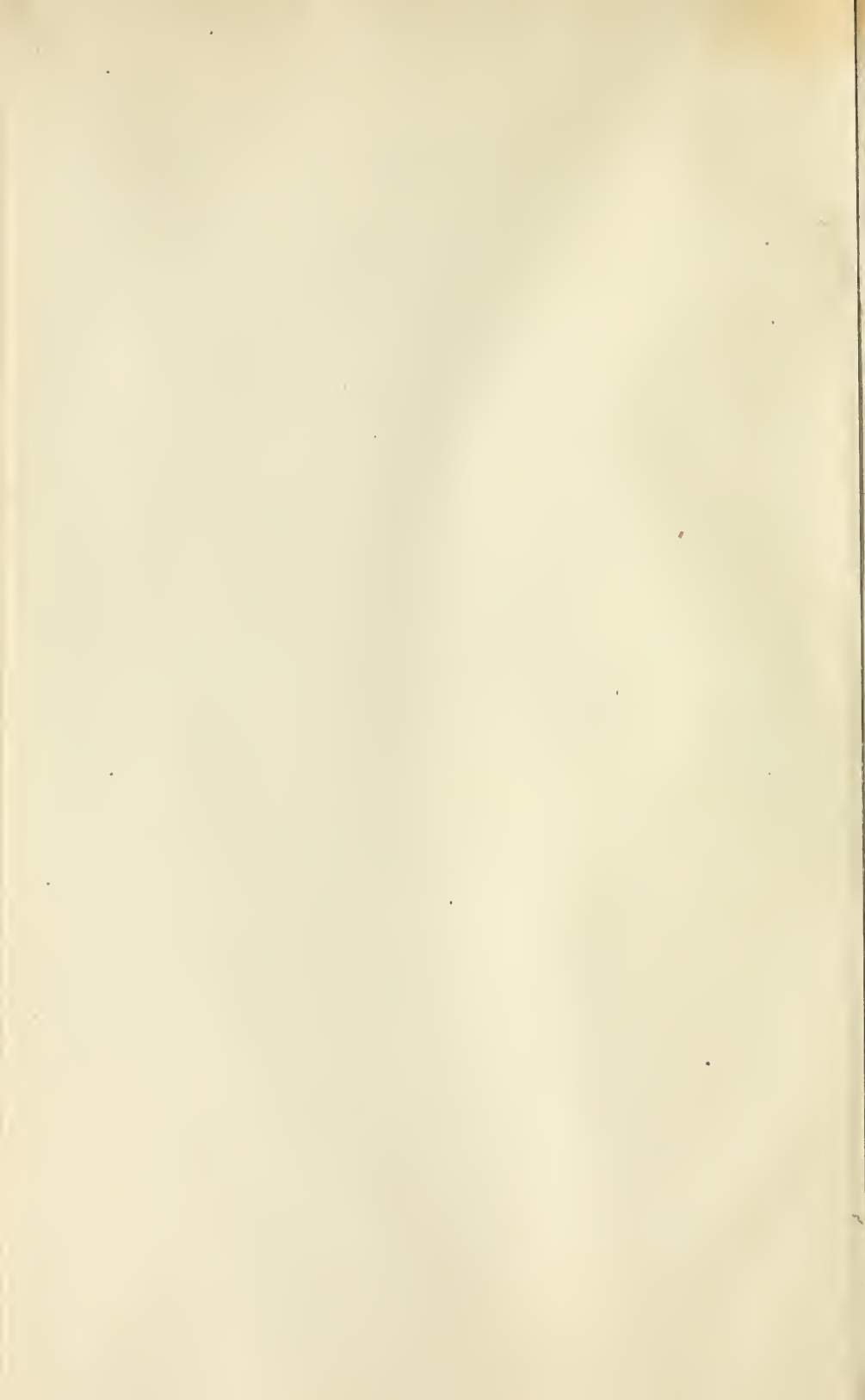
Which this dominant Power will be, I care not now to say; but I am willing to abide the trial. It is safe to say that it will be that one which combines most of the elements which in these times go to make up a great nation. It will be that one which rests, not upon one form of industry only, but upon the infinite diversity of pursuits which compose our modern civilization. It will be that one in which shall flourish most, agriculture in its best methods; manufactures in their endless variety of fabrics; the mechanic arts in their countless forms; commerce searching every sea; science, literature, inventions superseding human labor; all the nobler arts; institutions of learning of every grade; universal education; all that sustains and adorns life, all that enters into the structure of that grandest of human creations—if it be not rather a divine work—a mighty State.

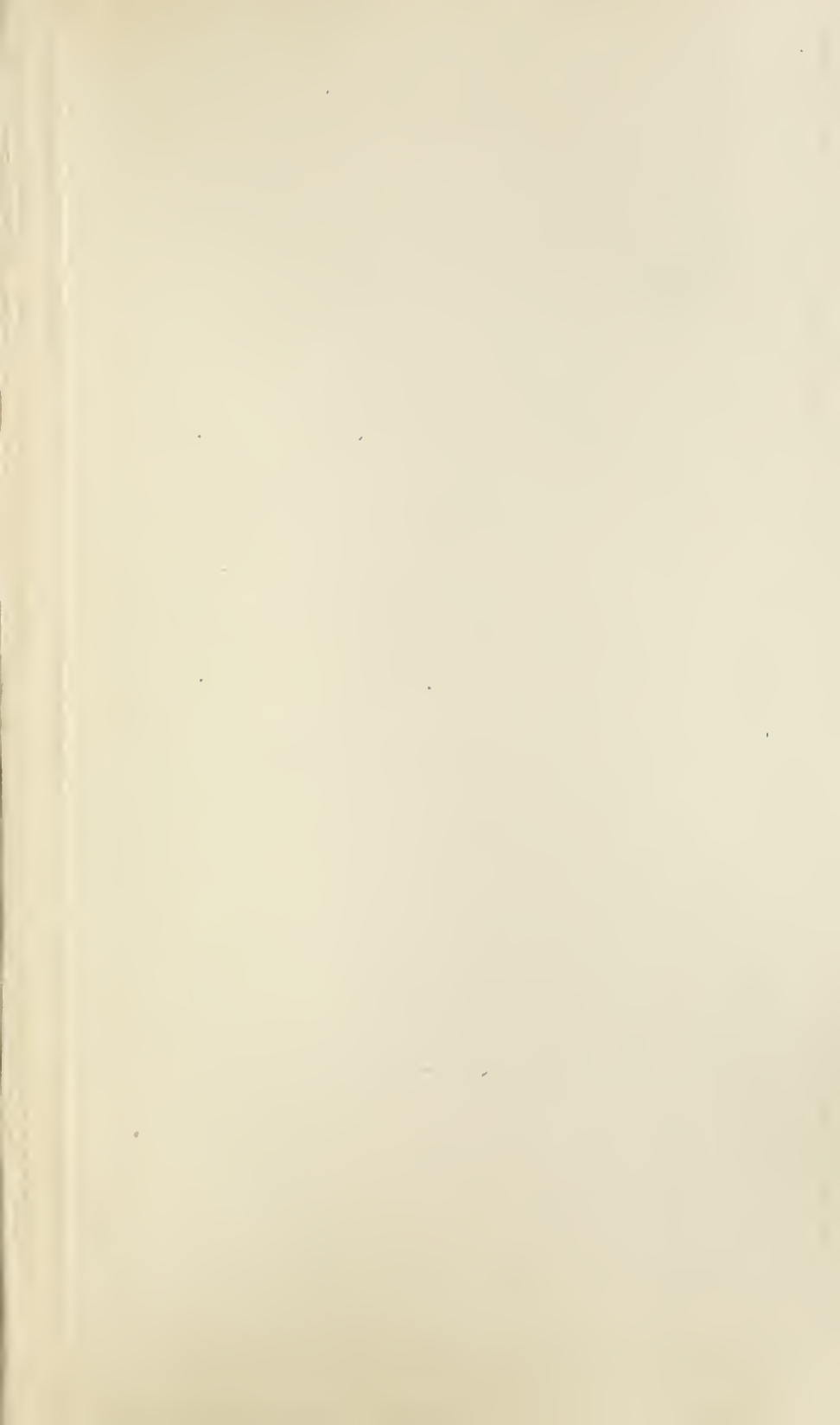
I, for one, accept the position which the irrepealable ordinances of nature shall decree for the State in which my fortunes are cast. If war shall come, as it will come—though I cannot contemplate it with indifference—I abide its result with profound tranquillity. For the world will be taught again the old lesson, that national strength reposes in the homes of free labor; that it springs up from the farm and out of the workshop. And they who provoke the trial will find that a great English statesman said most truly, “no sword is sharper than that which is forged from the plowshare; no spear more deadly than that which is beaten from the pruning-hook.”

And, sir, the most precious of all earthly possessions, Constitutional Republican Liberty, is

still secure. It will remain committed to the guardianship of a people equal to the sacred trust, and able to defend it against a world in arms. We have already had foreshadowed the erection, upon these shores, of Governments “strongly military” in their character; and, sir, whatever provincial oligarchies, whatever petty or powerful despotisms may arise on our borders, the Republic of the United States of America will ever be as it has ever been, the champion of the liberties of the WHOLE PEOPLE. Whoever else may prove recreant, we can never give up that precious inheritance which our fathers brought with them to this continent and transmitted to us in yet more abundant measure. Not by our apostasy shall these inestimable rights of the people be betrayed and lost, only to be recovered after other centuries of heroic struggle and endurance,—when other Elliots and Martens have perished in prison; when other Miltons have grown blind, while their studious lamps “out watched the Bear;” when other Hampdens have fallen on the bloody field; when other Russells have written and pleaded and suffered; when other Sydneys have spent the long night in solving the great problems of human Liberty, and then, when the morning came, have gone calmly out to seal the written page with their blood.

This birthright shall never be surrendered to us. It has been won on too many fields of strife and battle; it has been vindicated in too many triumphant debates. To secure it, too many nobles have bowed their serene brows to the block; too many martyrs have lifted up unshaking hands in the fire.





LIBRARY OF CONGRESS



0 011 895 747 7